

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ANDRE LEVANDER JACKSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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Civil Action No. 3:16-CV-180

(Judge Kosik)

ORDER

AND NOW, THIS 4th DAY OF MARCH, 2016, IT APPEARING TO THE COURT
THAT:

[1] Petitioner, Andre Jackson, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, on February 2, 2016 (Doc. 1), asserting that he was improperly sentenced as an armed career criminal and relying on Johnson v. United States, 135 S. Ct. 2551 (2015);

[2] The action was referred to Magistrate Judge Martin C. Carlson;

[3] The Magistrate Judge issued a Report and Recommendation (Doc. 3), on February 3, 2016, recommending that the petition be denied without prejudice or transferred to the Middle District of Florida pursuant to 28 U.S.C. § 1404;

[4] Specifically, upon screening, the Magistrate Judge found that the matter was improperly brought as a habeas petition under 28 U.S.C. § 2241, since Petitioner's claims do not fall within the narrow exception of In re Dorsainvil, 119 F.3d 245, 249 (3d Cir. 1997). The Magistrate Judge found that the matter should be addressed in the Middle District of Florida as a

petition under 28 U.S.C. § 2255, or in the United States Court of Appeals for the Eleventh Circuit as a second and successive petition under § 2255;

[5] Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

[6] If no objections are filed to a Magistrate Judge's Report and Recommendation, the Plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987); and

[7] We have considered the Magistrate Judge's report and we concur with his recommendation that the petition should be dismissed without prejudice;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

[1] The Report and Recommendation of Magistrate Judge Martin C. Carlson dated February 3, 2016 (Doc. 3) is **ADOPTED**;

[2] Petitioner's petition for writ of habeas corpus (Doc. 1) is **DENIED WITHOUT PREJUDICE**; and

[3] The Clerk of Court is directed to **CLOSE** this case and **FORWARD** a copy of this Order to the Magistrate Judge.

s/Edwin M. Kosik
Edwin M. Kosik
United States District Judge